

**Letter of Findings: 01-20190407
Individual Income Tax
For the Tax Year 2015**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individual demonstrated that his receipt of a truck from his company was the result of a purchase and not a distribution, and therefore was not taxable income.

ISSUE

I. Individual Income Tax - Imposition.

Authority: IC § 6-3-2-1; IC § 6-3.1-3-5; IC § 6-8.1-5-1; *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); [45 IAC 3.1-1-2](#).

Taxpayer protests the Indiana individual income tax imposed for tax year 2015.

STATEMENT OF FACTS

Taxpayer was an associate and officer of a company for several years. During that time, Taxpayer regularly loaned money to the company. In 2015, the company sold a truck to Taxpayer as a partial repayment of these loans. An audit conducted by the Indiana Department of Revenue ("Department") concluded that the Taxpayer had reported a selling price of \$0 to the Indiana Bureau of Motor Vehicles ("BMV"). The Department assessed consumer use tax, along with interest and penalties, which was timely paid in full by Taxpayer. The Department also assessed income tax, finding the value of the truck to be income to the Taxpayer from a corporate distribution. Taxpayer filed a written protest of the income tax assessment and an administrative hearing was held via teleconference. Additional facts will be provided as necessary.

I. Individual Income Tax - Imposition.

DISCUSSION

Taxpayer challenges the income tax assessment, claiming that the truck at issue was sold to him in exchange for partial forgiveness of a loan. Thus, the issue here is whether Taxpayer adequately demonstrated that the truck was not a distribution from the company.

As a threshold issue, it is a taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the [D]epartment's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 485 n.9 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010).

Indiana imposes a tax on the adjusted gross income of every Indiana resident. IC § 6-3-2-1(a). Adjusted gross income starts with the federal gross income figure and allows for deductions to reach an adjusted figure. IC § 6-3-1-3.5. The Department has issued a regulation incorporating the Federal definition of "gross income" and

explaining:

Sources of income include, but are not limited to:

- (1) Compensation for services, including fees, commissions and similar items.
- (2) Gross income derived from business.
- (3) Gains derived from dealings in property.
- (4) Interest.
- (5) Rents.
- (6) Royalties.
- (7) Dividends.
- (8) Alimony and separate maintenance payments.
- (9) Annuities.
- (10) Income from life insurance and endowment contracts.
- (11) Pensions.
- (12) Income from discharge of indebtedness.
- (13) Distributive share of partnership gross income.
- (14) Distributive share of taxable income from an electing small business corporation.
- (15) Income in respect of a decedent.
- (16) Income from an interest in an estate or trust.

[45 IAC 3.1-1-2](#). This means that distributions to shareholders are taxable income.

Sales of goods, however, are categorically unable to qualify as a distribution. A distribution, in the context of a corporation, is a "direct or indirect transfer of money or other property, or incurring of indebtedness to or for the benefit of its shareholders, such as a dividend payment out of current or past earnings." DISTRIBUTION, Black's Law Dictionary (11th ed. 2019). In contrast, a sale is defined as "the transfer of property or title for a price." SALE, Black's Law Dictionary (11th ed. 2019). A sale involves the exchange of value between both parties, whereas a distribution only involves income or goods flowing from the company to the shareholder.

Although Taxpayer's initial protest letter referred to the truck as a "distribution," Taxpayer clarified at the hearing that he actually purchased the truck from the company at market value. As payment, Taxpayer forgave loans he made to the company. This claim is corroborated by the company's Federal tax returns, which show that the Taxpayer had loaned the company substantial amounts of money, far more than the value of the truck, and that the company treated the disposal of the truck as a disposition of assets and reported the income from the sale.

Taxpayer does not claim that his transaction is exempt from sales tax. He acknowledged that he failed to accurately report the sale to the BMV and subsequently provided a copy of the check paying the tax assessed by the Department in full. But he challenges the subsequent classification of his purchase as a distribution of income. It is clear from documents provided at the hearing that the disposition of the truck was a sale, and not a distribution of income. The value of the truck should not be included in Taxpayer's adjusted gross income for 2015.

FINDING

Taxpayer's protest is granted.

June 28, 2019

Posted: 08/28/2019 by Legislative Services Agency
An [html](#) version of this document.